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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 SIAOSI VANISI,)
10 Petitioner,)
11 vs.)
12 E.K. McDANIEL, *et al.*,)
13 Respondents.)
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3:10-cv-0448-RLH-VPC

ORDER

16 In this capital habeas corpus action, the petitioner, Siaosi Vanisi, has filed a motion entitled
17 "Motion for Stay of State Court Proceedings" (docket #8). The court will grant the motion in part
18 and deny it in part.

19 This action was initiated July 19, 2010. On August 6, 2010, the court granted Vanisi
20 *in forma pauperis* status, and appointed the Federal Public Defender (FPD) to represent him
21 (docket #5). On August 13, 2010, the FPD – Tiffani D. Hurst and C. Benjamin Scroggins –
22 appeared (docket #10).

23 On August 13, when they appeared, Vanisi's attorneys also filed the Motion for Stay of
24 State Court Proceedings. In that motion, petitioner requests "a stay of execution and of all state
25 court proceedings during the pendency of Mr. Vanisi's habeas corpus action." Motion for Stay
26 (docket #8), p. 3.

1 The court then set a schedule for respondents to respond to the motion for stay, and
2 for Vanisi to reply (docket #9). Respondents appeared in the action (docket #10), and filed
3 an opposition to the motion for stay (docket #11) on August 19, 2010. Vanisi replied on
4 August 23, 2010.

5 According to Vanisi, there is a hearing set for September 2, 2010, in the state district, in order
6 to set a schedule for his execution. This is confirmed by an exhibit submitted by Vanisi, which is a
7 copy of an order setting that hearing.

8 This is Vanisi's first federal habeas action, so a stay of execution of Vanisi's death sentence,
9 pending the litigation of this action, is warranted. *See 28 U.S.C. § 2251; McFarland v. Scott*, 512
10 U.S. 849, 854-59 (1994). The court will grant Vanisi's motion to the extent it seeks a stay of his
11 death sentence.

12 However, beyond that, Vanisi has not shown grounds for a stay of any other state court
13 proceedings – including state court hearings. The court will deny Vanisi's motion to the extent it
14 seeks a stay of state court proceedings other than the execution of his death sentence.

15 **IT IS THEREFORE ORDERED** that petitioner's Motion for Stay of State Court
16 Proceedings (docket #8) is **GRANTED IN PART AND DENIED IN PART**, as is described below.

17 **IT IS FURTHER ORDERED** that the execution of the death sentence of petitioner
18 Siaosi Vanisi is **STAYED**. Siaosi Vanisi's death sentence shall not be carried out until the petition
19 for writ of habeas corpus in this case is resolved and a final judgment is entered in this case.

20 **IT IS FURTHER ORDERED** that, to the extent that petitioner's Motion for Stay of State
21 Court Proceedings (docket #8) seeks a stay of state court proceedings other than the execution of his
22 death sentence, that motion is denied.

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24 Dated this 23rd day of August 2010.

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UNITED STATES DISTRICT JUDGE